

REMARKS

The Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-12 are pending in the present application, and Claims 1-3 have been amended. Claim 1 has been amended to clearly reflect the intended scope of the original invention. Claims 2 and 3 were originally written as dependent claims, but they have been rewritten in independent form to include all the limitations of originally filed base claim 1. The Examiner is respectfully requested to reconsider the rejections of claims 1-12 in view of the amendments to the claims and the remarks as set forth below.

Drawings

The Examiner has not acknowledged the acceptance of the drawings. Applicants respectfully request that the Examiner acknowledge acceptance of the drawings in the next Office Action.

Acknowledgment of Information Disclosure Statement

The Examiner has acknowledged the Information Disclosure Statement filed on December 21, 2001. An initialed copy of the PTO-1449 has been received from the Examiner. No further action is necessary at this time.

Claim for Priority

The Examiner has not acknowledged Applicants' claim for foreign priority. Accordingly, the Examiner is respectfully requested to acknowledge Applicants' claim for priority in the next Office Action.

The Rejection Under 35 U.S.C. § 103

The Examiner has rejected claims 1-12 under the provisions of 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,018,337 (Peters et al, hereinafter "Peters") in view of U.S. Patent 5,809,454 (Okada et al, hereinafter "Okada") and an article by Lee, entitled "Time Compression and Expansion of Speech by the Sampling Method" (hereinafter "Lee"). The Applicants respectfully traverse the rejection.

U.S. Patent 6,018,337 (Peters)

Peters discloses a method and apparatus for selecting samples for presentation on an output device, such as a display or speaker, from a sequence of audio or video stored media samples. Position information is received from a pointing device or mouse, and translated into direction and magnitude information. A second sample is then retrieved based on this position and magnitude information. This method may include jog or shuttle controls.

Peters does not disclose sound data having a plurality of frames, and this point is not disputed on page 4 of the Office Action. Peters also does not disclose the feature of

claim 1 relating to a reproduced frame number and a skipped frame number that can be varied. Peters also does not disclose the features of claims 2, 3 and 7 relating to varying or changing at least one of the specified reproduced frame number and the specified skipped frame number to desired values for the fast forward/reverse.

U.S. Patent 5,809,454 (Okada)

Okada discloses an audio reproducing apparatus that includes an audio decoder and a voice speed converting unit. The audio decoder decodes an audio data stream to produce an audio signal. The voice speed converting unit converts the audio signal in such a manner that when a bit rate is higher than a normal bit rate, a pitch of a reproduced sound interval is the same as the pitch of the sound interval in a normal playback mode, and a voice speed in the reproduced sound interval approaches a voice speed in a sound interval in the normal playback mode.

The Office Action on page 4 correctly notes that Okada discloses MPEG technology and frames. Okada, however, does not disclose the feature of claim 1 relating to a reproduced frame number and a skipped frame number that can be varied. Likewise, Okada does not disclose the features of claims 2, 3 and 7 relating to varying or changing at least one of the specified reproduced frame number and the specified skipped frame number to desired values for the fast forward/reverse.

The Lee Article

The Lee Article, which was presented in 1972, describes various speech time compression-expansion techniques and equipment which have electronic circuits, both analog and digital. On pages 740-741 Lee describes two techniques using digital electronics. In the first digital technique of Fig. 4b, a A/D converter converts the speech to a digital output which is applied to two digital shift registers, and the outputs of the digital shift registers are selectively switched and converted back to an analog signal using a D/A converter. The second digital technique of Fig. 5 is similar to the technique of Fig. 4b except that a RAM is utilized in place of the digital shift registers. While there may be disclosure of digital components and digital circuits in Lee, there is no disclosure of frames of audio data.

Lee actually appears to teach away from the invention of claims 1, 2, 3 and 7 by teaching that the *keep interval* of the shift register embodiment is always constant. (See page 740, col. 2). Lee also teaches that the *discard interval* of the RAM embodiment is always constant. (See page 741, col. 1.) Since Lee does not disclose the frames of claims 1, 2, 3 and 7, Lee does not disclose the feature of claim 1 relating to a reproduced frame number and a skipped frame number that can be varied by external operation, and Lee does not disclose the features of claims 2, 3 and 7 relating to varying or changing at least one of the specified reproduced frame number and the specified skipped frame number to desired values for the fast forward/reverse. Accordingly, Lee teaches away from the invention of claims 1, 2, 3 and 7 by teaching

constant keep or discard intervals and by failing to teach an embodiment having both a *variable keep interval and a variable discard interval*.

The Office Action Fails to Establish a *Prima Facie* Case of Obviousness

In addition to affirmatively teaching away from the invention of claims 1, 2, 3 and 7, it is respectfully submitted that the Office Action fails to establish a *prima facie* case of obviousness. In order to establish a *prima facie* case of obviousness, a rejection made under 35 U.S.C. § 103 must meet three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). It is respectfully submitted that the Office Action has failed to show the necessary motivation for combining references or the probability of success.

There is No Motivation to Combine the Cited Prior Art References

It is respectfully submitted that the cited references do not recognize the problem of excessively slow, fast forward and fast reverse speeds solved by the Applicants'

claimed invention, and that one skilled in the art would not be motivated to combine the teachings of the cited prior art in order to solve the unrecognized problem.

The Applicants' claimed invention solves the problem associated with constant fast forward and fast reverse speeds on audio equipment that reproduce audio data. If the skilled artisan were to follow the teachings of the cited prior art, the references would not motivate the skilled artisan to modify the fast forward and fast reverse speeds of the Peters and Lee in the way claimed by the Applicants, because the Peters and Lee do not use frames of audio data. The only motivation to change or vary the number of frames of audio data to achieve faster and variable speeds is gleaned from the hindsight provide by Applicants' specification which teaches the desirability of faster and variable fast forward and fast reverse speeds.

The Applicant believes that the Office Action is based upon a selective combination of features found in the cited prior art references, and that such selective combining is impermissible. As stated in *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143 (Fed. Cir. 1985), "When prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself." Accordingly, Applicants respectfully submit that independent claims 1, 2, 3 and 7 are patentable over the cited prior art, because there is no motivation to combine the cited references to obtain the invention of claims 1, 2, 3 and 7.

Dependent Claims 4-6 and 8-12

The Applicants believe that the dependent claims 4-6 and 8-12 are allowable over the cited prior art for at least the same reasons as the independent claims from which they depend.

Conclusion


In view of the above amendments and remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Richard J. McGrath (Reg. No. 29,195) at the telephone number of (703) 205-8000, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: October 21, 2005

Respectfully submitted,

By  #39,491
for Michael K. Mutter
Registration No.: 29,680
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Rd
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicants